

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
HACER DINLER, et al.,

Plaintiffs,

04 Civ 7921 (RJS)(JCF)

-against-

CITY OF NEW YORK, et al.,

Defendants.

----- X
----- X

RNC CONSOLIDATED CASES¹,

----- X

**DEFENDANTS' STATEMENT OF UNDISPUTED MATERIAL FACTS
IN SUPPORT OF THEIR MOTION FOR
SUMMARY JUDGMENT TO DISMISS THE FALSE ARREST CLAIMS OF
PLAINTIFFS ARRESTED ON EAST 16TH STREET**

Defendants submit that, based upon the factual record in this case, the following facts are undisputed as contemplated by Rule 56.1 of the Local Civil Rules of the United States District Court for the Southern District of New York:

¹ This Declaration is submitted in support of Defendants' Motion For Summary Judgment dismissing the false arrest claims in the following cases: *Adams v. City of NY* 05 CV 9484; *Bastidas v. City of NY* 05 CV 7670; *Bell v. City of NY* 05 CV 3705; *Concepcion v. City of New York* 05 CV 8501; *Crotty v. City of NY* 05 CV 7577; *Dinler v. City of NY* 04 CV 7921; *Dudek v. City of NY* 04 CV 10178; *Grosso v. City of New York* 05 CV 5080; *Kennedy v. City of NY* 07 CV 7678; *Macnamara v. City of New York* 04 CV 9216; *Moran v. City of New York* 05 CV 1571; *Rigby v. City of New York* 07 CV 7751; *Stark v. City of New York* 05 CV 7579; *Starin v. City of New York* 05 CV 5152; *Tikkun v. City of New York* 05 CV 9901.

1. Prior to RNC, members of NYPD including Chief Essig received training on the elements and applicability of various city laws, including the elements of the disorderly conduct and parading without a permit statutes. (Essig Dep. pp. 47:5-10; pp. 48-49:13-11; pp. 49-51:12-13; pp. 51-53:17-13, Laera Dep. p. 17:7-16; pp. 19-20:22-6, Lamendola Dep. p. 50: 2-23).

2. Prior to the RNC, members of the NYPD including Chief Essig were instructed that their mission was to ensure that any demonstrator was given the opportunity to express themselves and exercise their First Amendment rights and to ensure that the law was enforced. (Essig Dep. p. 70:4-14, Doepfner Dep. p. 33:9-22, Lamendola Dep., pp. 54-56: 3-10, Baity Dep. p. 22:6-15).

3. Prior to the RNC, members of the NYPD including Chief Essig were instructed to make every effort to ensure that only those who violated the law were arrested. (Essig Dep. pp. 139-141:20-5, RNC Executive Summary at Bates p. 07082).

4. Throughout the Republican National Convention (“RNC”), the NYPD was responsible for the safety and security of the City, its inhabitants, protesters and visitors, and its buildings and property. (Smolka Dec.² at ¶¶ 2, 12, Monahan Dep. pp. 35-36, 123, Galati Dep. pp. 201-02).

5. Prior to the RNC, plans for widespread civil disobedience throughout New York City during the RNC were heavily publicized via the internet and the media.

²Declaration of Chief Bruce Smolka, dated December 1, 2008 (“Smolka Dec.”). This Declaration was originally submitted to Your Honor in support of Defendants’ Motion For Summary Judgment in *Marcavage v. City of New York*, 05CV4949 (RJS)(JCF). A copy of this document has been attached as Exhibit MM of the Declaration of Fred Weiler dated October 3, 2011.

(Hankin Dep. pp. 75:8-14. Hardesty Dep. pp. 102-104:1-1, Eric Corley Dep. pp. 53: 19-25, Giuliani Dep. pp. 46:23-47:03).

6. RNC protesters denominated August 31, 2004, or “A-31” as a Day of Rage or a “Day of Civil Disobedience.” (DeEntremont Dep. p. 192:17-24; 194:1-4, Blackburn Dep. p. 109:19-24, Hardesty Dep. p. 147:15-18, Kunz Dep. pp. 76-77:17-3; 82-83:20-6, Sandor Katz Dep. pp. 73: 15-20, Rosin Dep. p. 149-150: 25-23, Steitz Dep. pp. 97:15-12; 98-99:20-7; 100-101: 25-4; 153-154:18-22, Giuliani Dep. pp. 46:18; 50:23-50:24, Maddox Dep. p. 68:18, Mitrano Dep. p. 46:7, Shotwell Dep. p. 42:02-42:04, Nella Dep. pp. 68:03; 69:25-70:1, Monahan Dep. pp. 78-80; 278-79; 287-88; 414-415, Essig Dep. pp. 86-87:17-5; 245-246: 25-5, Galati Dep. p. 239:10, Dieckmann Dep. p. 45-46: 23-6, Sam Dep. p. 240:13-20; 338-339:22-5, Johnson Dep. pp. 39:20-40:2; 159:18-21; 35:9-16, Esposito Dep. pp. 1370-1372: 5-24; 1377-1378:10-16; 1389-1390:25-24; 1393:4-22, Majmudar Dep. p. 65:7-8, Friedman Dep. pp. 187:23-188:14; 192:13-25; 202:8-20, Dress Dep. pp. 129-130:24-5, Hardesty Dep. p. 148:3-7, Spector Dep. pp. 165-166:16-1, Sperry Dep. p. 141:4-12, Rosin Dep. pp. 149-150: 25-23; 151:11- 21; 160: 2-11, Hedemann Dep. p. 43:13-17, Giuliani Dep. p. 47:23-25, Erik Henriksen Dep. pp. 60: 15-16; 80:3-9; 80:16-18; 81: 2-11; 90: 6-10; 92: 11-20, Maddox Dep. p. 68:20-21, Mitrano Dep. pp. 41:18; 41-42:25-1; 46:09-46:10; 46:19, Zalk Dep. p. 59:9-11, Zarrella Dep. p. 26:3-7, Nella Dep. p. 60:17-18, Pelzek Dep. p. 69:5-7, Paine Dep. p. 69:12-13, Ponce Dep. p. 92:20-24; 93:8-12, Lovejoy Dep. p. 78:6-9; 78:17-19, Vault Dep. p. 95:16-20, Parrott Dep. p. 50:18-20).

7. The NYPD had been advised of the possibility of violence and city-wide disorder on August 31, 2004. (Sam Dep. pp. 338-339:22-5, Brijbukhan Dep. p. 21:3-15,

Keegan Dep. pp. 23-24:24:15; 25:22-26:2, Monahan Dep. pp. 78-80; 348-349; 428-29; 439, Galati Dep. pp. 239:12; 568:11, J. Shea Dep. p. 91, Del Gaudio Dep. p. 26:19-22).

8. Officers were advised that, on August 31st, there would be disturbances throughout the City at different locations at different times by different groups. (Essig Dep. pp. 86-87:17-5, Galati Dep. p. 240:11, Monahan Dep. pp. 428-429; 437- 43, Keegan Dep. p. 23:24-24:15; 25-26:22-22).

9. Officers were advised that, on August 31st, these incidents could take the form of “disruptions” to traffic, “breaking of property” and “attacks on police officers.” (Galati Dep. p. 240:17-21, Keegan Dep. p. 24:4-14).

10. The NYPD did face city-wide disorder on August 31, 2004. (Galati Dep. pp.91-92; 98-100, Monahan Dep. pp. 146-51; 266-67, J. Shea Dep. p. 92:19).

11. Union Square Park was a primary gathering spot for many groups and individuals during the RNC. (Essig Dep. pp. 99: 13-21; 247:5-7, Ward Dep. p. 10:2-13).

12. Union Square Park was a focal point for many of the plans for August 31, 2004. (Keegan Dep. p. 26:14-22, Del Gaudio Dep. p. 36:21-22, Chandra Dep. pp. 22:9-12; 22-23:24-9, Walsh Dep. pp. 15:18-20; 15-16:23-8, Friedman Dep. pp. 232-233:22-10, Blackburn Dep. pp. 115:19-23; 116:9-20, Hill Dep. p. 95: 1-7, Rosin Dep. pp. 166: 9-22; 167:1-3, Steitz Dep. p. 109:5-10, Michelle Kaye Dep. pp. 81: 1-3; 81: 10-25, Thomas Kennedy Dep. p. 178: 9-21, Greg Griffith Dep. p. 50:20-23, Geocos Dep. p. 68:23-25, Giuliani Dep. p. 61:07-10, O’Dierno Dep. pp. 78:18-19; 79:02-79:04, Erik Henriksen Dep. pp. 85: 11-15; 86: 2-6; 87: 7-10; 88: 16-21; 90: 6-10; 92: 11-20, Maddox Dep. p. 11:5-8, Sassone Dep. p. 55:6-9, Stipe Dep. p. 19:14-15, Stipe Dep. pp. 23-24:24-2, Soloff Dep. pp. 39:6-13; 41:1-3, Wilcox Dep. pp. 58:13-23; 61:6-9; 61-62:23-3, Rebecca Wood

Dep. (I) p. 78:14-15, Zalk Dep. pp. 61:14-15; 61:20-21, Zarrella Dep. p. 27:18-21, Mancuso Dep. p. 9:7, Vik Dep. pp. 8:21-24; 10-11:22-1, Lily Hughes-Dunn Dep. p. 10:21-24, Stark 50-h p. 31:2-14, Maurer Dep. p. 89:4-12).

13. During the week of the RNC, the NYPD tried to facilitate First Amendment activity by escorting unpermitted marches to proceed from Union Square to the demonstration zone on Eighth Ave/32nd Street. (Essig Dep. pp. 119:12-21; 290-291:13-22; 503-504:13-17, Johnson Dep. pp. 133-134:6-9, Dieckmann Dep. p. 56:5-13, Galati Dep. pp. 348-349:2-9; 357-359: 14-6).

14. There was a plan to have an unpermitted parade out of Union Square Park (the “16th Street Parade”) on August 31, 2004. (Friedman Dep. p. 173:7-13, Crotty Dep. pp. 86:7-16, 104:11-16; 105:2-11, Blackburn Dep. pp. 115:12-16; 122-123:22-1; 123:14-17, Cincotta Dep. pp. 17:8-11; 22:17-25 120:23-25, Dress Dep. pp. 126:7-10; 131-132:23-2, Hankin Dep. p. 101:13-18, Hardesty Dep. p. 151:5-10, Levin Dep. pp. 75:8-17, McGee Dep. p. 79-80:25-10, Mukerjee Dep. p. 9-10:22-5; 82:14-17; 83:6-8, Spector Depo. p. 58:17-19, Sperry Dep. p. 67:2-3, Kristin Kojis Dep. p. 28:16-17, Bhagat Dep. p. 49:6-7, Breznau Dep. p. 28-29:31:1-11, Hill Dep. p. 94:1-3, Lily Hughes-Dunn Dep. p. 10:21-24, Pryor Dep. p. 88:12-13, Rose Dep. p. 85:17-24, Stark Dep. pp. 34:12-14; 119:14-17, Strasser Dep. p. 15:8-10, Whitney Dep. pp. 126-127:23-3, Stark 50-h pp. 31:2-14; 32:9-12, Jabour 50-h p. 107:16-19, Giuliani Depo. pp. 54:22-24; 55:16-55:21, Maddox Dep. pp. 10:20-21; 11:5-11:8; 11:25-12:02, Mitrano Dep. p. 41:18, L. Martin Dep. p. 12:23-24, Zalk Dep. pp. 57:5-6; 61:14-15, Megan Cox Dep. p. 23:17-29, Nella Dep. p. 83:6; 83:18-19, Lahn Dep. pp. 141:10-25; 144:9-19; 148:17-25; 149:2, Lovejoy Dep. pp. 40:23-25; 41:1-2; 82:3-8, Duke Dep. p. 61:19-23).

15. Flyers were distributed identifying parade leaders in costume and instructing participants where to proceed. (Grimshaw Dep. pp. 33:18-21; 81:11-14; 161:11-15, Malanum Dep. p. 202:16-18, Hill Dep. p. 94:1-3, Rosin Dep. pp. 168:23-24; 168:23-24; 170-171:24-2; 172:24-25, Steitz Dep. p. 104:14, Michelle Kaye Dep. pp. 72:2-22; 82:5-23; 82:17-23, Shotwell Dep. pp. 63:08-10; 64:9, Shortridge Dep. pp. 83:15; 85:22-23; 86:15-16, Sakayama Dep. pp. 70:15-16; 71:4-5, Wilcox Dep. p. 65:17-18, Zarrella Dep. pp. 29:6-11; 31:19-21, Concepcion Dep. p. 123:16-17, Megan Cox Dep. p. 33:25, Rettstadt Dep. pp. 67:2-3; 88:21-22, Lahn Dep. pp. 144:9-19; 148:17-25; 149:2, Hughes-Dunn Dep. p. 14:13-18).

16. At one point during the afternoon of August 31st, participants in the 16th Street Parade began to gather at the southern end of Union Square Park. (Sam Dep. pp. 52-53:11-19; 81-82:15-19, Baity Dep. pp. 34-35:11-22; 36:7-14, Gonzalez Dep. p. 36:8-15, Malone Dep. pp. 42-43:23-9, Johnson Dep. pp. 42-43:20-8, Cortright Dep. p. 51:20-25, Encarnacion Dep. pp. 47:13-19; 49:15-18, E. Biddle Dep. pp. 9:16-10:1; 11:25-12:3, Friedman Dep. pp. 173:7-13; 232-233:22-10, Crotty Dep. pp. 86:7-16, 103:14-22; 105-106:16-22; 117:12-25, Podber Dep. pp. 38:12-39:10; 41:9-24; 42:2-11; 44:3-5, Blackburn Dep. pp. 114:14-17; 115:5-8; 117:14-19, Dress Dep. pp. 131:15-19; 140:15-21; 139:12-16; 144:1-3, Grimshaw Dep. pp. 41:1-5; 45:5-8; 46:7-12; 47:16-20, Hankin Dep. pp. 105:11-19; 107:2-10; 108-109:15-6, Hardesty Dep. p. 151-152:23-1, Levin Dep. pp. 78-79:23-1; 82-83:24-9, McGee Dep. p. 80:14-19, Mukerjee Dep. p. 84:12-18, Olsen Dep. pp. 79-80:6-22, Spector Dep. pp. 54:21-24; 57:5-7, Sperry Dep. p. 63:15-18, Cortright Dep. p. 47:7-21, Waters 50(h) pp. 11:3-8; 12:17-23, Lucrezia Dep. pp. 55:6-25; 68:2-6; 25:1-19; 32:2-15, Bell 50-H p. 16:15-18, Stipe Dep. p. 27:20-22, Soloff Dep. p. 38:05-

38:06, Sakayama Depo. p. 65:20-22, Wilcox Dep. p. 64:6-7, Concepcion Dep. p. 124:17-18, Megan Cox Dep. p. 31:15-16, Elfrank-Dana Dep. p. 91:18-19, Nella Dep. p. 92:12-13, Kaplan Dep. pp. 62:5-7; 63:19-23; 66:5-6, Palmer Dep. pp. 141-142:24-2, Ponce Dep. p. 113:14-16, Mathews Dep. p. 68:12-17, Plaintiff Video #68 at 22:44-31:11, Plaintiff's 22 at Bosse16.JPG, Bosse17.JPG, Bosse 18.JPG, Plaintiff Video 78- Rothman 9- Rothman RNC Cases at 3:39-4:15, IWV 1022 at 00:00-00:15, IWV 1051 at 00:00-06:50).

17. Among those that gathered in Union Square Park were the marching bands known as the Rude Mechanical Orchestra ("RMO") and the Infernal Noise Brigade ("INB"). (Ross Dep. p. 164:7-18, Spector Dep. p. 58:14-16, Sperry Dep. pp. 63-64:25-10; 67:2-3, Podber Dep. pp. 41:9-24; 44:3-5, Blackburn Dep. pp. 114:14-17; 115:5-8; 117:14-19, Dress Dep. pp. 131:15-19; 140:15-21; 144:1-3, Grimshaw Dep. pp. 41:1-5; 45:5-8; 46:7-12; 47:16-20, Hankin Dep. pp. 105:11-19; 107:2-10; 108:15-109:6, Levin Dep. p. 82-83:24-9, McGee Dep. pp. 80:14-19; 84:12-18, Olsen Dep. pp. 79-80:6-22, Spector Dep. pp. 54:21-24; 57:5-7, Crotty Dep. pp. 117:12-25; 118:1-11, Podber Dep. p. 42:2-11, Kunz Dep. p. 89:22-25, Heinegg Dep. p. 148:5-20, Sperry Dep. p. 68:10-23).

18. Several plaintiffs were members of the RMO and INB. (Crotty Dep. pp. 86:7-16; 103:14-22; 104:11-16, Cincotta Dep. pp. 17:8-11; 22:17-25, Dress Dep. pp. 126:7-10; 131-132:23-2, Mukerjee Dep. p. 67:2-22, Spector Dep. p. 27:7-21, Grimshaw Dep. p. 22:13-19, Podber Depo. 44:3-5, Blackburn Dep. p. 117:14-19, Levin Dep. pp. 78-79:23-1, Cincotta Dep. pp. 28:14-23; 36:19-21, Dress Dep. p. 147:10-12, Hardesty Dep. pp. 102-104:1-1; 104-105:23-5; 110-11:19-2, Sperry Dep. p. 70:12-16).

19. Chief James Essig was aware that the 16th Street Parade was unpermitted. (Essig Dep. at pp. 126-127:25-10).

20. Participants were aware that the 16th Street Parade was unpermitted. (E. Biddle Dep. p. 16:5-8, Crotty Dep. p. 174-175:9-2, Podber Dep. p. 35-36:20-2, Hardesty Dep. pp. 10:10-20; 11:17-25, McGee Dep. pp. 12:4-6; 15:16-18, Mukerjee Dep. p. 97:14-20, Olsen Dep. pp. 129:16-18; 133:4-7, Bhagat Dep. pp. 48:2-14; 48:19-22, Eifert Dep. pp. 10-11:17-20, Heinegg Dep. p. 161-162:12-12, Maurer Dep. p. 69:15-19; 139:19-22, Maurer City Council Testimony p. 19-20:25-2, Rosin Dep. p. 15:5-9, Giuliani Dep. p. 8:20-21, Nella Dep. p. 86:16-18, Erik Henriksen Dep. pp. 67:6-9; 71:15-18; 72:11-25; 73:1-3; 81:2-19; 105: 11-13, Goldstein 50-h p. 41:20-24).

21. Unexpectedly and without police consent, the 16th Street Parade launches from the southern end of Union Square Park. (Video Complilation (the “Video Comp.”) at Chapter 1³, Gonzalez Dep. p. 37:2-7, Fredericks Dep. pp. 36-37:21-16, Malone Dep. pp. 44:5-14; 46:24-47:5, Connolly Dep. pp. 31:16-23; 32:2-5, Johnson Dep. p. 47-48:22-11, Cortright Dep. pp. 49:16-24; 52:3-7; 142:5-10, Crotty Dep. pp. 107-108:16-8; 109-110:13-3, Blackburn Dep. pp. 117-118:17-9, Hardesty Dep. p. 155:2-7, Levin Dep. p. 93:7-10, McGee Dep. p. 82-83:23-7, Mukerjee Dep. p. 86:2-22, Sperry Dep. pp. 64:11-24; 66:16-18; 68-69:21-5, Bhagat Dep. pp. 50:17; 51-52:17-3, Breznau Dep. p. 33:13-23, Freas Dep. pp. 56:22-25; 57:1-25:58:1-15, Heinegg Dep. pp. 151:2-4; 152:4-18; 157:13-24, Rosin Dep. pp. 173-174:14-7, Steitz Dep. p. 112:14-23, Waters Dep. pp. 25:14-24; 26:4-17, Holt Dep. pp. 82:16-20; 84:18-23, Laurenson Dep. p. 13:20-23, O’Dierno Dep. p. 87:7-8, L. Martin Dep. p. 74-75:16-20, Shotwell Dep. p. 66:10-14, Stipe Dep. p. 27:9-19, Rubinfeld Dep. p. 80:25-2, Wilcox Dep. p. 67:19-24, Rebecca Wood Dep. (I) p. 85:5-8, Zalk Dep. p. 65:3-6, Zarrella Dep. p. 31:7-9, Concepcion Dep. p. 125:22-23, Mancuso

³ See Declaration of Gerald Smith (the “Smith Dec.”) at Exhibit D.

Dep. p. 14:21-22, Pelzek Dep. p. 75:07-75:09, Rettstadt Dep. p. 67:16-20, Ponce Dep. p. 7-9, Reilly Dep. p. 67:2-5, Ross Dep. pp. 127-128:23-2, Quick Dep. p. 79:16-17, Codel 50-h p. 12:6-9, Kaplan 50-h p. 22:7-9, Stark 50-h p. 47:10-14, Jabour 50-h p. 119:15-23, Walden Dep. pp. 101-102:10-1, Plaintiff Video 143 at 1:00-2:00, Plaintiff Video 78-Rothman 9- Rothman RNC Cases at 4:15, DVD #22- Bosse at 16; Bosse at 17, Plaintiff's Video: Neary 00001, #68 at 00:22:44 to 00:31:11, Plaintiff #65 at 00:00:00 to 00:01:45, Plaintiff's 22 at Bosse20.JPG, NLG DVD 1011 at 00:45:11:14—00:48:06:15, IWV Video: #735 at 00:12:52-00:14:42:03).

22. The 16th Street Parade exited from the southern end of Union Square Park onto Union Square East. (Video Comp. at Chapter 1, Sam Dep. p. 53:5-16, N. Rodriguez Dep. p. 46:20-21, Bizzarro Dep. p. 41:2-5, Malone Dep. pp. 44:5-14; 45:2-3; 46-47:24-5, Connolly Dep. pp. 33:7-22; 33-34:25-7; 34:23-25, Cortright Dep. p. 49:16-24, Del Gaudio Dep. p. 43:21-24, Soldo Dep. p. 26:10-13, Cortright Dep. p. 49:20-24, Gomez Dep. p. 24:17-21, Giambrone Dep. pp. 29:2-4; 30:5-9; 31:18-23; 37:06-12, Majmudar Dep. pp. 67:21-24; 73:20-22; 75:15-19, Crotty Dep. p. 127:1-5, Podber Dep. p. 45:5-11, Blackburn Dep. p. 117-118:17-19, Cincotta Dep. p. 24:21-24, McGee Dep. p. 18:10-11, Maddox Dep. p. 80:23-25, Palmer Dep. pp. 146:6-8; 147:2-4, Ross Dep. p. 164-165:22-8, Sperry Dep. pp. 68:10-23; 69:8-10; 70:17-22, Bhagat Dep. pp. 50:17;51-52:17-3, Freas Dep. p. 58:10-15, Eifert Dep. p. 102:3-8; 152:6-18, Maurer 50(h) p. 20:7-13, Maurer City Council Testimony p. 20:6-8, Waters 50(h) p. 13:15-17, Holt Dep. p. 86:1-16, Laurenson Dep. pp. 11:12-15; 12:9-20, Thomas Kennedy Dep. pp. 148:14-17; 153:12-19; 154:19-25; 155:2-25; 157:12-16; 159:4-8, Greg Griffith Dep. pp. 50:20-25; 51:1-2; 51:18-19; 52:6-7, Erik Henriksen Dep. pp. 103:5-25; 104:1-25; 105:1-10, 105:18-19, 105:23-25;

106:1-3, O'Dierno Dep. p. 87:7-8, Maddox Dep. p. 80:23-25, L. Martin Dep. pp. 74-75:16-20, Sassone Dep. pp. 60:21-24; 74:25-75:03, Shortridge Dep. pp. 86:21; 87:3-4; 87:6-87:9, Sakayama Dep. pp. 71:20-21; 72:2-5, Wilcox Dep. p. 67:19-24, Rebecca Wood Dep. p. 85:11-15, Zalk Dep. p. 65:3-6, Zarrella Dep. p. 34:11-13, Megan Cox Dep. p. 37:1-2, Elfrank-Dana Dep. p. 101:21, Nella Dep. p. 99:13-15, Pelzek Dep. p. 73:10, Jabour Dep. p. 131:9-15, Paine Dep. p. 73:20-23, Parrott Dep. p. 15:24-16:3, Rose Dep. p. 89:14, Starin Dep. pp. 35:11-13; 35:24-24, 36:1-3, Cohn 50-h pp. 19-20:22-4, Kristen Kojis Dep. pp. 30:16-25; 31:1-9, Eric Corley Dep. pp. 68:22-25; 69:1-4, Plaintiff's Video 76 at 00:00:55 to 00:02:53, Plaintiff Video #68 Neary 00001 at 00:22:44 to 00:31:11, Plaintiff #65 at 00:00:00 to 00:01:45, Plaintiff Video 143 at 1:00-2:00, Plaintiff Video 78- Rothman 9- Rothman RNC Cases at 3:39-4:15, DVD # 22 Bosse at 20, NLG DVD 1011 at 00:45:11:14—00:48:06:15, IWV Video: #735 at 00:12:52-00:14:42:03).

23. The 16th Street Parade was led out of Union Square Park by the RMO and INB marching bands. (Video Comp. at Chapter 1, Crotty Dep. pp. 107-108:16-8; 109-110:13-3; 127:1-5, Blackburn Dep. pp. 117-118:17-9, Hardesty Dep. p. 155:2-7, Levin Dep. p. 93:7-10, McGee Dep. pp. 82-83:23-7, Mukerjee Dep. p. 86:2-22, Bhagat Dep. pp. 50:17; 51-52:17-3, Waters Dep. pp. 25:14-24; 26:4-17, Thomas Kennedy Dep. pp. 148:14-17; 153:12-19; 154:19-25; 155:2-25; 157:12-16; 159:4-8, Greg Griffith Dep. pp. 50:20-25; 51:1-2, 18-19; 52:6-7, Holt Dep. p. 84:18-23, Podber Dep. p. 45:5-11, Blackburn Dep. pp. 117-118:17-19, Cincotta Dep. p. 24:21-24, McGee Depo. p. 18:10-11, Ross Depo. pp. 164-165:22-8, Sperry Dep. pp. 69:8-10; 70:17-22, Bhagat Dep. pp. 50:17; 51-52:17-3, Freas Dep. p. 58:10-15, Eifert Dep. p. 102:3-8, Heinegg Dep. p.

152:6-18, Blackburn Dep. p. 79:14-25; 118:10-19, Kristen Kojis Dep. pp. 30:16-25; 31:1-9).

24. Hundreds of individuals, including plaintiffs, joined and followed the 16th Street Parade in order to follow the marching band and participate in the 16th Street Parade. (Chandra Dep. pp. 28:1-4; 34:25-35:2; 35:10-17; 36:21-24, Eric Corley Dep. p. 67:7-11, Majmudar Dep. p. 67-68:25-17; 68:20-24; 76:18-21, Walsh Dep. pp. 20:18-21; 21:6-9; 21:10-12, Malanum Dep. pp. 213-215:8-6; 216:5-23; 217-218:15-7; 254:2-7, Friedman Dep. pp. 239:10-17; 139:15-22; 242:2-11, Dress Dep. p. 147:10-12, Hankin Dep. pp. 111-112:19-1, Hardesty Dep. p. 153:4-8, Levin Dep. p. 93:11-14, McGee Dep. pp. 82-83:23-7; 86:10-12, Mukerjee Dep. pp. 88:12-19; 89:20-23, Ross Dep. p. 164:19-21, Sperry Dep. p. 96:8-10, Kristen Kojis Dep. pp. 30:16-25; 31:1-9, Eric Corley Dep. pp. 67:7-11; 68: 22-25; 69: 1-4, Sandor Katz Dep. pp. 89:5-6, 89:22-25; 90:1-2, Bhagat Dep. pp. 48-49:19-24; 55:22-23, Breznau Dep. pp. 33:13-23; 35-36:24-3; 37:21-23, Freas Dep. p. 56:5-11; 56:21-25; 57:1-5; 58:1, Kunz Dep. pp. 91:4-13; 94:5-17; 9:6, Heinegg Dep. pp. 109-110:24-1; 157:13-24; 162:16-22, Thomas Kennedy Dep. pp. 148:14-17; 153:12-19; 154:19-25; 155:2-25; 157:12-16; 159: 4-8; 164: 15-16, Michelle Kaye Dep. p. 83:3-25; 84:1-12; 85:2-22, Erik Henriksen Dep. pp. 103-105:5-10, 105:18-19, 105:23-25; 106:1-3, Averbakhi Dep. p. 95:10-16, Averbakhi 50(h) p. 19:7-9, Maurer Dep. pp. 101:7-8; 106:18-20, Maurer 50(h) p. 18:13-18, Waters Dep. p. 26:18-25, Waters 50(h) p. 13:17-20, Holt Dep. pp. 13:6-10; 85:14-23, Geocos Dep. pp. 77:9-10; 79:23; 88:14-17; 93:13-16, O'Dierno Dep. p. 88:20-22, Maddox Dep. p. 74:14-19, Mitrano Dep. pp. 52-53:24-2, L. Martin Dep. pp. 76:11; 81-82:23-1, Shotwell Dep. p. 68:2-4, Sassone Dep. p. 76:2-4, Shortridge Dep. p. 87:20-21, Stipe Dep. pp. 27:9-19; 29:5-7; 29:12-13, Rubinfeld Dep.

pp. 10:21-22; 82:6-8, Soloff Dep. pp. 10-11:25-5, Sakayama Dep. pp. 73:8-11; 81:24, Wilcox Dep. pp. 65-66:24-4; 67:19-67:24, Zalk Dep. pp. 9:4-6; 65:3-6; 65:18-22; 68:4-6, Zarrella Dep. pp. 31:19-21; 32:11-14; 34:11-13, Bastidas Dep. pp. 18:3-7; 21:21-23; 129:4-129:5; 129:17-18, Caspar Dep. p. 174:14-17, Concepcion Dep. pp. 125:22-23; 126:21-22, Borok Dep. p. 69:23, Mancuso Dep. pp. 17-18:25-1; 18:08-18:9, Moran Dep. pp. 37:13; 140:6-8, Nella Dep. pp. 92:19-20; 95:10-95:11, Pelzek Dep. pp. 71-72:25-1; 72:10-12; 75:12-13, Schoeman Dep. pp. 15:11-12; 94:21, Vik Dep. pp. 124:19-20; 125:10-11; 125:17-18; 128:18-23, Rettstadt Dep. pp. 67:16-20; 85:23-25; 88:8-10, Kaplan Dep. pp. 64-65:20-4, Paine Dep. p. 73:15-16, Parrott Dep. p. 13:12-13, Perry Dep. p. 71:18-19, Mathews Dep. p. 70:15-16, Quick Dep. p. 79:16-17, Rosenthal Dep. p. 149:21-22, Bosse 50-h p. 9:8-19, Codel 50-h pp. 7:20-25; 12:14-17, Graham 50-h pp. 25-26:23-6, Paine 50-h p. 12:6, Reilly 50-h p. 42:21-23, Rettstadt 50-h p. 22:10-18, Schoeman 50-h p. 15:17-19, Lahn Dep pp. 35:3-6; 63:17-25; 64:1-8, Lovejoy Dep p. 87:10-13, Bell Dep. pp. 51:16-20; 52: 17-25, Starin Dep. p. 38:10-15, Tikkun Dep. pp. 10:4-13; 17:21-25; 21:5-10, Starin 50(h) p. 21:11-21, Argyros 50 (h) pp. 16:24-25; 17:2-10, Tikkun 50-H pp. 10:12-17; 12:13-16).

25. Normally, vehicular traffic flows in both directions on Union Square East. (Rufle Dep. pp. 44:10-12; 49:14-22, Hardesty Dep. p. 156:6-10, Palmer Dep. p. 148:4-6, Ross Dep. p. 130:8, Gomez Dep. p. 26:5-7, Walden Dep. p. 19:5-7, Rosin Dep. p. 177:4-22, DVD # 22 Bosse at 23, Plaintiffs DVD #18 Hall at 00:01-00:01:44, DVD #18 Hall at 00:02:09, NLG DVD #1011 at 00:41:00-00:41:48:11, IWV Video: #735 at 00:16:13).

26. Participants in the 16th Street Parade proceeded north on Union Square East on both the sidewalk and in the roadway. (Video Comp. at Chapter 2, Baity Dep. p.

193:6-23, N. Rodriguez Dep. p. 46:22-23, Bizzarro Dep. p. 41:2-12, Gonzalez Dep. p. 42:1-5, Malone Dep. p. 47:15-20, Connolly Dep. pp. 39-40:17-6, Johnson Dep. p. 194:3-16, Cortright Dep. pp. 50:3-18; 52:8-17; 56:8-13; 119:4-12; 181:4-6 230-231:24-4, Keegan Dep. pp. 39:16-25; 41-42:18-3; 42:10-19, Laera Dep. pp. 33:11-19; 82-83:17-6, Carpentieri Dep. pp. 99:4-22; 108:18-21, Giambrone Dep. p. 31:18-23, Fernandez Dep. p. 43:18-22, Lamendola Dep. pp. 86:14-24; 87:2-25, Encarnacion Dep. p. 63:12-15, Cortright Dep. pp. 52:8-12; 177:24-175:4, Franzo Dep. p. 32:16-18, Gomez Dep. p. 24:25-5, Maurer Dep. pp. 108:5-23; 131:19-20, Maurer City Council Testimony p. 20:6-9, Breznau Dep. pp. 35:19-25; 36:1-3, Freas Dep. pp. 62:11-25; 64:1-19, Eifert Dep. p. 12:6-12, Majmudar Dep. p. 79:17-24, Walsh Dep. pp. 24:13-18; 30:14-1, Malanum Dep. p. 236:3-5, Friedman Dep. p. 243:8-20; 257:4-22, Crotty Dep. pp. 130:8-13; 130:14-23; 131:5-10, Podber Dep. p. 45:5-11, Blackburn Dep. pp. 13-15; 119-120:14-1, Cincotta Dep. p. 25:18-22, Dress Dep. pp. 144-145:21-18; 151-152:23-2, Grimshaw Dep. p. 67-68:23-1, Hankin Dep. pp. 113-114:23-3, Hardesty Dep. p. 153:11-18, Levin Dep. p. 94:15-21, McGee Dep. p. 18:13-24, Mukerjee Dep. p. 87:13-24, Olsen Dep. pp. 81:15-17; 89:10-15, Ross Dep. p. 167:15-17, Spector Dep. p. 61:3-6, Sperry Dep. pp. 70-71:23-3; 72:2-11, Hill Dep. pp. 99-100:22-20; 101:18-25; 102:1-2; 102:17-24; 103:2-5, Sandor Katz Dep. pp. 8:5-9; 9:7-15, Steitz Dep. pp. 116:1-4; 113: 19-25, Erik Henriksen Dep. pp. 14:9-24; 103:5-25; 104:1-25; 105:1-10, 105:18-19; 105:23-25; 106:1-3; 106: 22-24; 108: 11-14, Michelle Kaye Dep. pp. 86:1-25; 87:1-9, Holt Dep. p. 91:9-15, Thomas Kennedy Dep. pp. 159:4-24; 165:2-11; 193:2-9, Giuliani Dep. pp. 9:12-9:15; 74:11-12; 74:13-14; 75:4-5, O'Dierno Dep. pp. 88-89:25-1; 97:23-25, Maddox Dep. pp. 14:7-12; 81:15-81:17, Mitrano Dep. p. 53:22-23, L. Martin Dep. pp. 15:15; 79:4-6; 81:10-11, Shotwell Dep. p.

69:4-6, Sassone Dep. pp. 9:23-24; 10:6-8; 10:15-16; 70:23-25; 74:13-14, Shortridge Dep. p. at 96:13-14, Rubinfeld Dep. pp. 12:07-12; 81:08; 83:7-8; 83:22-24, Soloff Dep. p. 12:3-4; 42:23-25; 43:3, Rebecca Wood Dep. p. 82:15-17, Zarrella Dep. p. 32:8-32:18, Elfrank-Dana Dep. pp. 106:20-21; 107:19-20, Mancuso Dep. p. 18:03, Moran Dep. p. 23:10-15, Nella Depo. p. 94:17-18, Pelzek Dep. p. 73:7, Schoeman Dep. p. 12:23-15, Hughes-Dunn Dep. p. 15:7-8, Jabour Dep. pp. 11:19-24; 133-134:18-4, Palmer Dep. pp. 47:1-8; 147:18-23, Perry Dep. p. 72:16-22, Ponce Dep. p. 123:19-21, Reed Dep. p. 35:18, Graham Dep. p. 14:9-13, Grosso Dep. pp. 94:6-10; 96:19-23, Ross Dep. p. 18:18-19, Pan Dep. pp. 91-92:23-1, Mathews Dep. p. 70:22-25, Stark Dep. p. 145:21-23, Strasser Dep. p. 108:10-11, Perry 50-h p. 22:10-11, Stark 50-h pp. 48:6-8; 58:16-20; 59:21-25, Martin 50-h p. 12-15, Mancuso 50-h p. 27:22-25, Lahn Dep. pp. 150:7-23; 154:8-22, Lewis Dep. p. 45:20-24, Lovejoy Dep. p. 87:19-21, Lucrezia Dep. pp. 66:22-25; 67:1-5, Bell Dep. pp. 56:20-25; 57:1, Starin Dep. p. 40:1-7, Starin 50-H p. 24:13-19, Laurensen Dep. p. 17:13-16, Duke Dep. p. 80:3-10, Plaintiff Video 143 at 2:30-4:45, Plaintiff Video 78- Rothman 9- Rothman RNC Cases at 5:00-7:15, Plaintiff Video 114- Cathie Bell Part 1 of 2 at 1:00-1:30, NLG DVD # 1011 at 00:45:58:10-00:48:26:07, Plaintiff's Video 76 at 00:00:55 to 00:02:53, #68 Neary 00001 at 00:31:11 to 00:31:47, Plaintiff #65 at 00:01:33 to 00:3:56, Plaintiff's 22 at Bosse22.JPG, Perry5.jpg, Cohn 1.jpg, Cohn 2pg., Cohn3.jpg, Cohn4.jpg, Cohn5.jpg, IWV Video #1051 at 7:07-9:00, DA Video #61 at 18:57:19 to 19:00:58, IWV Video 1118 at 00:00-1:00)).

27. The 16th Street Parade looks like a parade, procession, or march as it proceeds northbound on Union Square East. (Video Comp. at Chapter 2, Essig Dep. pp. 100-101:10-6; 262:4-13, Dieckmann Dep. p. 57:9-18, Sam Dep. p. 54:12-15, Malone

Dep. pp. 45-46:24-5, Gonzalez Dep. p. 93:9-19, Fontaine Dep. pp. 76-77:23-7, Benjacob Dep. pp. 83:8-15; 83:20-23; 150-151:21-5, Connolly Dep. p. 33:7-22, Johnson Dep. p. 48:18-22; 95-96:17-6, Cortright Dep. pp. 181:4-11; 230-231:24-4, Keegan Dep. p. 39:16-25, Laera Dep. pp. 82-83:17-6, Carpentieri Dep. pp. 101-102:24-7, Sarrubbo Dep. p. 38:6-8, Giambrone Dep. p. 31:18-23, Lamendola Dep. p. 126: 9-15, Officer Fernandez Dep. pp. 46-47:21-11, Perry Dep. pp. 30:8-31:17; 33:22-23; 44:4-5; 53:11-14, Ruffle Dep. pp. 39:17-19; 40:9-18, Majmudar Dep. pp. 68:20-24; 76:18-21; 76-77:22-13, Malanum Dep. pp. 217-218:15-7; 239:11-16; 254:2-7; 255-256:15-8, Friedman Dep. pp. 238:7-21; 243:8-20; 273:3-5; 285:5-8, Crotty Dep. pp. 127:9-14; 138:5-7; 138:8-13; 118:11-19, Dress Dep. p. 47:16-21, Grimshaw Dep. pp. 81:11-14; 82-83:24-4; 83:10-12, Hardesty Dep. pp. 110-111:19-2, Levin Dep. p. 94:21-24, McGee Dep. p. 83:12-16, Mukerjee Dep. p. 87:13-21, Olsen Dep. pp. 85:25-86:5; 86:8-14; 86:21-25, Spector Dep. pp. 60:20-24; 61:21-24, Sperry Dep. pp. 66:19-21; 71:4-10; 72:20-24; 73:2-12, Kristen Kojis Dep. p. 32: 1-4, Sandor Katz Dep. 89:5-6, 89:22-25; 90:1-2, Bhagat Dep. pp. 48-49:19-24; 55:22-23; 54-55:15-12, Breznau Dep. p. 34:16-22, Freas Dep. pp. 62:11-25; 64:1-19, Eifert Dep. p. 105:16-18, Kunz Dep. pp. 91:9-22; 94:2-13, Heinegg Dep. pp. 110:1-25; 155:14-21; 158: 2-10; 163:6-11; 170-171:1-8; 172:1-21, Hill Dep. pp. 99-100:22-20; 101:18-25; 102:1-2; 103:6-25, Rosin Dep p. 177:18-25, Steitz Dep. p. 116:1-4, Maurer Dep. pp. 112-113:24-1, Erik Henriksen Dep. pp. 12:17-19; 104:23-25; 105:1-14; 102: 20-24; 103: 5-25; 104:1-25; 105:1-10; 105:18-19; 105:23-25; 106:1-3; 106: 22-24; 108: 11-14, Michelle Kaye Dep. pp. 83-84:3-12; 85:2-22, Sakayama Dep. (I) p. 72:8-10, Kplan Dep. pp. 63-64:24-2, Stark Dep. p. 148:3-4, Perry 50-h pp. 21:19-20; 22:3, Schoeman CCRB at 3, Rosemoore 50-h p. 9:25, O'Dierno 50-h p. 15:16-18, Lovejoy Dep. p. 91:19-21,

Tikkun Dep pp. 26:20-25; 27:1, Starin 50-H p. 24:13-19, Thomas Kennedy Dep. pp. 148:14-17; 153:12-19; 154:19-25; 155:2-25; 157:12-16; 159: 4-8; 193: 2-9, Greg Griffith Dep. pp. 50:20-25; 51:1-2; 54:4-8; 56:24-25; 57:4-5, Plaintiff's Video 76 at DVD Counter 00:00:55 to 00:02:53, #68 Neary 00001 at 00:31:11 to 00:31:47, Plaintiff #65 at 00:01:33 to 00:3:56, on actual footage 18:58:33 to 19:00:56, Plaintiff's 22 at Bosse22.JPG, Cohn1.jpg, Cohn2pg., Cohn3.jpg, Cohn4.jpg, Cohn5.jpg, IWV Video #1051, 7:07-9:06, DA Video #61 18:57:19 to 19:00:58, Plaintiff Video 114- Cathie Bell Part 1 of 2 at 1:00-1:30, Plaintiff Video 25, Adams CD#4, at 3:05-15, Plaintiff Video 143 at 2:30-4:45, Plaintiff Video 78- Rothman 9- Rothman RNC Cases at 5:00-8:00, DVD #22 (Bosse at 22-23; Perry at 5), DVD #18 Hall at 00:00-00:03:37, NLG DVD # 1011 at 00:45:58:10-00:48:26:07, IWV Video 957, 5:28-7:33; 1011, 45:46-48:01, IWV Video: IWV Video 1022 at 00:00-3:15).

28. The 16th Street Parade blocks vehicular traffic on Union Square East. (Video Comp. at Chapter 2, N. Rodriguez Dep. p. 44:11-17, Bizzarro Dep. pp. 41:2-8; 41:15-20; 44:2-6, Connolly Dep. pp. 39-40:17-6, Johnson Dep. pp. 48-49:18-3, Cortright Dep. pp. 50:3-18; 52:8-17; 56:8-13; 119:4-12; 181:4-6, Keegan Dep. pp. 39:3-8; 41-42:18-3, Laera Dep. p. 33:11-19, Giambrone Dep. p. 37:6-12, Fernandez Depo. pp. 46-47:21-11, Lamendola Dep. pp. 86:14-24; 87:2-25; 111: 2-13; 114: 2-13; 129: 3-10, Chico Dep. p. 74:7-16, Sarrubbo Dep. p. 38:6-8, Gomez Dep. p. 25:18-25, Johnson Dep. pp. 48-49:18-5, Daly Depo pp. 36:5-19; 37:10-11, Walsh Dep. pp. 30-31:14-1, Levin Dep. pp. 95-96:19-10, Sperry Dep. p. 72:2-11, Sandor Katz Dep. p. 99: 5-14, Erik Henriksen Dep. pp. 12:17-19; 14:9-24; 103:5-25; 104:1-25; 105:1-14; 105;1-10; 105:18-19; 105:23-25; 106:1-3; 106:22-24; 107:24-25; 108:11-14, Michelle Kaye Dep. pp. 10: 2-6; 11: 4-20;

74:25; 75:1; 86: 1-25; 87: 1-9, Geocos Dep. p. 13:67, Rubinfeld Dep. p. 12:15-17, Nella Dep. p. 95:21-25, Jabour Dep. p. 138:9-12, Quick Dep. pp. 82:4-8; 144:11-16, Tomiko-Jones Dep. pp. 162-163:24-5, Shortridge Dep. p. 89:11-12, Steitz Dep. p. 114:1-12, Lovejoy Dep. pp. 90:21-25; 91:8-11, Lucrezia Dep. p. 2:4-7, Laurenson Dep. p. 18:4-7, Plaintiff Video 25 at 3:20-30, Plaintiff Video 143 at 2:30-4:45, Plaintiff Video 78- Rothman 9- Rothman RNC Cases at 5:00-7:15, Plaintiff Video 114- Cathie Bell Part 1 of 2 at 1:00-1:30, DVD #22 (Bosse at 21-23; Cohn at 1-4, DVD #18 Hall at 00:00-00:03:37, DVD #18 Hall at 00:01:24-00:01:44, Paintiff's Video 76 at 00:00:55 to 00:02:53, #68 Neary 00001 at 00:31:11 to 00:31:47, Paintiff #65 at 00:01:33 to 00:3:56, Plaintiff's 22 at Bosse22.JPG, Bosse23.JPG, Perry5.jpg, Cohn 1.jpg, Cohn 2pg., Cohn3.jpg, Cohn4.jpg, Cohn5.jpg, DA Video #61 18:57:19 to 19:00:58, NLG DVD # 1011 at 00:45:58:10-00:48:26:07, IWV Video 1118 at 00:00-1:00, IWV Video 1051 7:15-9:00).

29. Essig And Dieckmann observe the 16th Street Parade blocking vehicular traffic on Union Square East. (Essig Dep. pp. 100:14-23; 101:4-6; 212-213:19-6; 213:11-20; 457:16-21, Dieckmann Dep. pp. 57:9-23; 60:15-23; 177-78:21-9).

30. The 16th Street Parade blocks pedestrian traffic on Union Square East. (Video Comp. at Chapter 2, Bizzarro Dep. p. 41:2-9, Johnson Dep. pp. 48-49:18-3; 249:13-24, Cortright Dep. pp. 50:3-18; 125:4-9, Keegan Dep. pp. 39:16-25; 42:10-19, Cortright Dep. 125:4-9, Friedman Dep. p. 345:12-17, Blackburn Dep. pp. 13-15; 119:14-120:1, Michelle Kaye Dep. p. 97: 22-23, Hughes-Dunn Dep. p. 19:9-11, Jabour Dep. pp. 11:19-24; 133-134:18-4; 138:17-21, Tomiko-Jones Dep. p. 162:12-14, Mitrano Dep. p. 9:23-24, Lewis Dep. pp. 46:24-25; 47:1-15, Walden Dep. p. 20:7-20, Plaintiff Video 143 at 2:30-4:45, Plaintiff Video 78- Rothman 9- Rothman RNC Cases at 5:00-7:15, Plaintiff

Video 114- Cathie Bell Part 1 of 2 at 1:00-1:30, Plaintiff's Video: 76 at DVD Counter 00:00:55 to 00:02:53, Plaintiff Video #68 Neary 00001 at 00:30:43 to 00:31:36, Plaintiff #65 at 00:01:33 to 00:3:56, Plaintiff's 22 at Bosse22.JPG, Bosse23.JPG, Perry5.jpg, DA Video #61 18:57:19 to 19:00:58, NLG DVD # 1011 at 00:45:58:10-00:48:26:07, IWV Video 1118 at 00:00-1:00).

31. Essig And Dieckmann observe the 16th Street Parade blocking pedestrian traffic on Union Square East. (Essig Dep. pp. 212-213:19-6; 213:11-20, Dieckmann Dep. pp. 60:15-23; 94-95:8-14; pp. 177-178:21-9).

32. The NYPD forms a line on Union Square East at East 16th Street to keep the 16th Street Parade from reaching Park Avenue South. (Essig Dep. p. 101:18-23, Dieckmann Dep. p. 58:2-11, Giambrone Dep. p. 38:4-5, Malone Dep. pp. 48:3-8; 49:11-25; 50:24-51:5, Cortright Dep. pp. 121:15-19; 123:19-23, Keegan Dep. p. 40:5-12, Fernandez Dep. pp. 86-87:23-5, Keegan Dep. 39:16-21, Del Gaudio Dep. p. 45:8-13, Encarnacion Dep. p. 57:5-11, Sarrubbo Dep. p. 38:8-10, Graham Dep. pp. 126-127:24-2, Keegan CCRB RMT #4806, pp. 4; 12, Ruffle Dep. pp. 17-18:22-9; 38:22-25; 43-44:11-4; 48:24-25; 50:7-17; 157:19-25, Plaintiff Video 78- Rothman 9- Rothman RNC Cases at 7:15, IWV Video 1118 at 1:45, IWCV 1051 at 8:00 – 8:45).

33. At the point where officers blocked Union Square East with a line, participants in the 16th Street Parade, including plaintiffs, were free to turn back into Union Square Park or turn around. (Dieckmann Dep. pp. 188-189:22-5, Del Gaudio Dep. pp. 47-48:24-6; 51:18-24, Malone Dep. pp. 49-50:22-7, Connolly Dep. p. 46:12-16, Keegan Dep. p. 41:5-10, Sarrubbo Dep. p. 40:13-15, Fernandez Dep. p. 87:15-20, Maurer Dep. pp. 117-118:21-9, Kristen Kojis Dep. p. 34:3-8, Crotty Dep. pp. 140-141:20-13;

141:19-21, Cincotta Dep. p. 30:2-13, Dress Dep. p. 148:9-12, Mukerjee Dep. pp. 94-95:19-4, Sperry Dep. pp. 75:2-5; 96-97:20-2, Eric Corley Dep. pp. 71: 23-25; 72: 1-2, Sandor Katz Dep. pp. 104: 20-25; 105:1-10, Rivera Dep. p. 66:9-21, Steitz Dep. p. 120:19-22, Bhagat Dep. p. 56:3-8, Freas Dep. pp. 65:20-25;66:1-19, Kunz Dep. p. 99:6-22, Heinegg Dep. pp. 175-176:1-21;177:18-24, Thomas Kennedy Dep. p. 197: 5-12, Greg Griffith Dep. p. 59:5-8, Michelle Kaye Dep. pp. 88:13-20; 89:1-9, Geocos Dep. pp. 86:20-86:22; 88:18-88:21; 91:20-21; 92:15-18, O'Dierno Dep. pp. 93:17-19; 97:10-12, Maddox Dep. pp. 91-92:24-1, Sassone Dep. pp. 76:12-14; 78:20-22, Shortridge Dep. p. 95:20-23, Sakayama Dep. p. 82:18-19, Rebecca Wood Dep. p. 90:1-3; 90:4-90:6, Erik Henriksen Dep. pp. 113:20-24; 114:1-4 ; 114: 7-10, 114:25; 115:1-3, 115:17-23, Zarrella Dep. p. 35:4-6, Caspar Dep. p. 173:20-23, Borok Depo. pp. 77:23; 143:4-6, Elfrank-Dana Dep. at p. 119:19-22, Nella Dep. p. at 96:8-11; 98:20-22, Paine Dep. p. 76:24-25; 87:17-19, Graham Dep. pp. 127-128:24-4, Ross Dep. p. 134:21-24, Mathews Dep. pp. 86-87:25-5, Rose Dep. p. 99:11-13, Stark Dep. p. 149:16-17, Abdiel Depo p. 48:11-21, Lovejoy Dep. pp. 89:14-18; 90:3-5, Perry Dep. p. 132:2-7, Walden Dep. p. 108:8-18, Plaintiff Video 78- Rothman 9- Rothman RNC Cases at 7:15-7:40, Plaintiff Video 79 at 34:13-35:48).

34. Participants in the 16th Street Parade, including plaintiffs, admit that they chose on their own to proceed east on East 16th Street. (Malone Dep. pp. 49-50:22-7, Fernandez Dep. p. 89:15-18, Keegan Dep. pp. 41:5-17, Waters Dep. pp. 29:7-9; 41: 2-6, Chandra Dep. pp. 35:10-17; 116:17-25, Walsh Dep. p. 82:12-15, Malanum Dep. p. 249:6-10; 263:16-25, Lovejoy Dep. p. 94:20-23, Friedman Dep. pp. 278:3-6; 286:18-20; 342:17-24; 343:15-344:6, Cincotta Dep. p. 31:18-23, Dress Dep. p. 147:10-13, McGee

Dep. pp. 86:13-17; 87:11-13, Mukerjee Dep. p. 90:13-17, Ross Dep. p. 164:19-21, Spector Dep. pp. 64-65:25-5, Sperry Dep. pp. 74:6-7; 75:2-5; 96:11-13, Rivera Dep. p. 66:9-21, Kristen Kojis Dep. p. 34:3-8, Rosin Dep. p. 186:16-20, Steitz Dep. p. 120:19-22, Bhagat Dep. p. 56:3-8-14, Freas Dep. pp. 65:20-25;66:1-19, Eifert Dep. p. 107:1-12, Kunz Dep. p. 99:6-22, Heinegg Dep. p. 177:18-24, O'Dierno Dep. p. 94:5-6, Michelle Kaye Dep. pp. 88:13-20; 89:1-9, Maddox Dep. p. 82:2-5; 91:24-1, Mitrano Dep. p. 57:7-8, Shortridge Dep. pp. 99-100:23-1, Stipe Dep. p. 29:24-25, Sakayama Dep. p. 81:20-22, Wilcox Dep. pp. 9:23-24; 12:16, Rebecca Wood Dep. p. 90:7-8, Zarrella Dep. p. 35:07-8, Bastidas Dep. pp. 18:3-7; 18:21-23; 130:12-14, Concepcion Dep. pp. 129-130:25-1, Borok Dep. p. 143:04-6, Megan Cox Dep. pp. 43:9-12; 44:10-13, Moran Dep. p. 140:6-8, Pelzek Dep. p. 78:16, Rettstadt Dep. p. 89:13-14, DVD #18 Hall at 00:03:37-00:03:57, Plaintiff's Video #76 at 2:50-3:25, DA #76 00:00:00 to 00:01:00, NLG DVD #1011 at 00:48:06:15-00:48:26:07).

35. Participants in the 16th Street Parade turned east onto East 16th Street. (Video Comp. at Chapter 3, Baity Dep. pp. 190:2-10; 194:4-25, Baity Dep. pp. 20-21:22-8, Gonzalez Dep. p. 93:9-19, Fontaine Dep. pp. 76-77:23-7, Malone Dep. pp. 47:21-23; 49-50:22-7, Laera Dep. p. 33:20-22, Benjacob Dep. pp. 83:20-23; 150-151:21-5, Carpentieri Dep. pp. 102:8-13; 108:18-21, Benjacob Dep. pp. 83-84:20-2, Fernandez Dep. pp. 45-46:20-2; 46:09-10; 89:15-18, Laera Dep. p. 33:17-19, Del Gaudio Dep. p. 44:19-23, Gomez Dep. p. 29:15-20, Daly Dep. pp. 37:24; 38:1-9, Abdiel Dep. p. 46:8-20, Anderson Dep. p. 14:18-25, Ryan Dep. p. 38:7-11, Sarrubbo CCRB RMT #2823, p. 5, Sam CCRB RMT #2837, p. 4, Maurer Dep. p. 134:9-13, Maurer City Council Testimony p. 20:10-11, Waters Dep. pp. 29:7-9; 30:24-25; 35-36:24-1, Waters 50(h) p.

15:16-24, Chandra Dep. pp. 36-37:25-1, Malanum Dep. p. 263:16-25, Friedman Dep. pp. 278:3-6; 286:18-20; 342:17-24; 343:15-344:6, Crotty Dep. p. 142:23-25, Dress Dep. p. 147:10-13, McGee Dep. p. 86:13-15, Mukerjee Dep. p. 90:13-17, Ross Dep. p. 164:19-21, Sperry Dep. pp. 74:6-7; 96:11-13, Rivera Dep. p. 71:11-24, Hill Dep. pp. 110-11:18-20, Steitz Dep. p. 120:19-22, Bhagat Dep. p. 56:3-8, Eifert Dep. pp. 104:10; 113:2-4, Kunz Dep. p. 99:19-22, Michelle Kaye Dep. pp. 88:21-25; 89:1-9, Kristen Kojis Dep. pp. 32:13-17; 33:13-15; 34:1-2, Mitrano Dep. p. 57:7-57:8, Shotwell Dep. p. 69:24-25, Sassone Dep. p. 77:22-24, Stipe Depo. p. 29:19-21, Stipe Depo. p. 29:24-29:25, Sakayama Dep. pp. 76:17-76:20; 81:20-81:22, Wilcox Dep. p. 9:23-24, Zarrella Dep. p. 34:15-34:17, Concepcion Depo. p. 128:17-18; 129:25-130:1, Elfrank-Dana Dep. at 109-110:24-1, Nella Dep. p. 99:13-15, Pelzek Dep. p. 78:16, Rettstadt Dep. p. 89:2-89:7, Hughes-Dunn Dep. pp. 17:21-23; 18:11-13, Jabour Depo. p. 142:8, Paine Dep. p. 74:23-25, Giles Dep. p. 84:3-10, Pryor Dep. p. 101:20-22, Stark Dep. p. 145:3-7, Tomiko-Jones Dep. p. 92:5-6, Lovejoy Dep. p. 94:20-23, Lucrezia Dep. pp. 61-62:25--5, Tikkun 50-H p. 12:20-21, Walden Dep. pp. 10:18-19; 11:15-17, Perry Dep. pp. 30-31:18-4, Duke Dep. pp. 82-83:25-2 1; 83:17-23, Plaintiff's Video #79, 34:13-35:48, Plaintiff's Video # 76 at 2:50-3:25, Plaintiff Video #68 Neary 00001 at 00:31:15 to 00:32:00, Plaintiff #65 at 00:3:56 to 00:4:58, DVD #22 –Bosse at 21 and 22; Bosse at 23, DVD #18 Hall at 00:03:37-00:03:57, DVD # 18 Hall at 00:04:01-00:05:34, NLG DVD #1011 at 00:48:06:15-00:48:26:07, IWV Video #1051, 8:45-10:00, DA Video #94, 0:52-1:00, IWV Video 957, 7:46; 1011, 48:01, IWV Video 1130 at 0:45-1:15, Plaintiff Video 78 7:15-7:45).

36. The 16th Street Parade proceeds eastbound to Irving Place & East 16th St. (Video Comp. at Chapter 4, Johnson Dep. pp. 50-51:25-8, Loftus Dep. pp. 35-36:2-5; 36-37:21-9, Bizzarro Dep. pp. 46-47:21-13, Connolly Dep. p. 32:15-17, Carpentieri Dep. pp. 115-116:23-9, Chun Dep. pp. 51-52:19-19, Johnson Dep. pp. 50-51:25-8, Bell Dep. p. 31:3-13, Lamendola Dep. pp. 86:17-20; 93:24-24; 94:2-3, Maurer Dep. p. 134:14-16, Kristen Kojis Dep. p. 34: 23-25, Eric Corley Dep. pp. 75:9-11; 75:14-15, Sandor Katz Dep. p. 103:3-25, Chandra Dep. p. 39:10-18; 64-65:25-1, Majmudar Dep. pp. 80:3-23; 81:5-7, Malanum Dep. pp. 270-271:17-2, Podber Dep. p. 53:1-3, Cincotta Dep. p. 32:20-24, Hardesty Dep. pp. 159-160:24-2, Spector Dep. 64:2-7, Hill Dep. pp. 110-11:18-20, Bhagat Dep. pp. 55-56:22-16, Eifert Dep. pp. 107:17-20; 113:2-4, Kunz Dep. pp. 94-95:16-7, Heinegg Dep. pp. 179-180:10-4, Rosin Dep. p. 187: 8-12, Steitz Dep. p. 122:6-22, Greg Griffith Dep. p. 60:6-8, Holt Dep. p. 87:12-13, Giuliani Dep. pp. 81:3-8; 81:20; 82:8-82:9, O'Dierno Dep. p. 99:6-11, Maddox Dep. pp. 79:15-17; 79:21-25, Erik Henriksen Dep. pp. 117:24-25; 118:1-15, Shotwell Dep. p. 74:11-22, Stipe Dep. p. 32:18-20, Sakayama Dep. p. 83:6-10, Rebecca Wood Dep. p. 90:7-8, Zalk Dep. p. 71:2-6, Zarrella Dep. p. 36:18-19, Mancuso Dep. p. 31:9-10, Kaplan Dep. pp. 71-72:23-22, Parrott Dep. p. 78:11-12, Martin 50-h p. 10:12-16, Lewis Dep. p. 50:18-20, Plaintiff's Video #79 at 00:15-00:36; 34:13-35:48, Plaintiff DVD # 22 (Bosse at 24-28;Cohn at 8), DVD #18 Hall at 00:03:37-00:03:57; Hall at 00:04:01-00:05:34; Hall at 00:04:01-00:05:42, Plaintiff's Video #76 at 3:12 – 5:00, #68 Neary 00001 at 00:31:36 to 00:32:35, Plaintiff #65 at 00:4:00 to 00:5:50, Plaintiff's 22 at Bosse24.JPG through Bosse28.JPG, Cohn6.jpg, Cohn7.jpg, Cohn8.jpg, IWV Video #1051, 9:25-10:50, IWV Video 957, 7:46-10:04; 1011, 48:02-49:56, DA Video #61 19:00:58 to 19:03:00, NLG DVD # 1011

at 00:48:26:07—00:48:54:25, Plaintiff Video 143 at 4:45-6:30, Plaintiff Video 78 7:15-9:40).

37. There were more participants in the 16th Street Parade on Union Square East than on East 16th Street. (Caspar 50(h) p. 28:3-6, Waters Dep. p. 34:8-13).

38. Participants in the 16th Street Parade continue to violate the law on East 16th Street. (Video Comp. at Chapters 4 and 5, Riggan Dep. p. 94:4-9, Sam Dep. pp. 83:14-19; 83:17-19; 266:12-15, Suero Dep. pp. 60-61:18-15; 62:10-12; 62:17-19; 63:21-22; 138-139:18-8; 142:14-19; 143:9-15; 157:15-25; 161:4-12, N. Rodriguez Dep. p. 75:14-23, Loftus Dep. pp. 66:19-25; 74-75:25-9, Bizzarro Dep. pp. 46-47:21-13; 48:8-11, Gonzalez Dep. p. 61:2-16; 88:20-25; 89:19-90:11, Fontaine Dep. pp. 90:2-17; 117:9-19; 93:4-9, Fredericks Dep. pp. 40:3-10; 41:3-8; 44:18-23; 68-69:25-12; 93-94:24-11, Pacheco Dep. p. 23:15-23, Brijbukhan Dep. pp. 47-48:18-4; 67:9-11; 52:5-9; 67:12-22, Malone Dep. pp. 57:6-9; 59:4-11; 59:12-21, Neumann Dep. pp. 43:9-17; 46:18-23, Connolly Dep. pp. 45-46:12-4; 48-49:21-3; 53-54:19-16; 59-60:24-5, Johnson Dep. pp. 50-51:25-8; 173:2-4; 250-251:20-6 252-253:18-4, Cortright Dep. p. 74:3-5, Keegan Dep. pp. 54-55:21-6, Carpentieri Dep. pp. 119-120:23-12, Peralta Dep. pp. 22:11-16; 33: 17-20, Benjacob Dep. pp. 104:18-20; 105:9-16; 137:7-10; 106:7-8; 148:22-149:5, Essig Dep. pp. 104:2-22; 111:15-21; 112: 16-24; 326:6-12, Johnson Dep. pp. 50-51:25-8; 250-251;20-13, Dieckmann Dep. p. 78: 4-16, DeEntremont Dep. pp. 119:13-22; 132-133; 136-137:17- 15, Bencosme Dep. p. 30:7-23, Bell Dep. pp. 31:3-13; 29:2-5; 50:18-23, Bonacci Dep. pp. 20-21:19-5, Brijbukhan Dep. p. 31:14-19, Byrne Dep. pp. 44:11-18; 49:17-18, Encarnacion Dep. p. 65:12-17, Sarrubbo Dep. p. 42:18-21, Pribetich Dep. p. 29:21-22, Mullen 7/16/2007 Dep. pp. 29-30:22-4; 33-34:25-7, Caraballo Dep. p. 37:12-

17, Gomez Dep. p. 24:21-24, Gomez Dep. p. 37:17-22; 63:13-25, Stipe 50-h p. 6:19-24, Giambrone Dep. p. 40:20-24, Panasuk Dep. p. 35:22-24, Chun CCRB RMT #2665, p. 5, Crichigno CCRB RMT #2835, p. 5, Franzo CCRB RMT #2841, pp. 10-11, Keegan CCRB RMT #4806, pp. 15-16,27, Lundberg Dep. pp. 30-31:3-13, Manzi Dep. pp. 38-39:22-9; 40:7-17, Minogue Dep. pp. 66:6-24; 71:15-17, Ruffle Dep. pp. 78:21-22; 87:7-18; 90-92:16-11, Ryan Dep. p. 42:6-22, Sam CCRB RMT #2837, p. 4, Subbarro CCRB RMT #2823, p. 7, Suero CCRB RMT #4804, pp. 6-7, Lamendola Dep. pp. 86:14-24; 87:2-25; 98:3-4; 101:21-25; 102:2-18; 103:16-18; 104:2-5; 109:19-25; 110:3; 111:2-13; 114:2-13, Maurer Dep. pp. 134:9-13; 140:17-20; 142:4-10; 142:13-17; 143:1-10, Dinler Dep. pp. 57-58:1-22, Waters 50(h) p. 18:14-22, Majmudar Dep. pp. 83:2-12; 83:18-23, Walsh Dep. pp. 29-30:23-3; 35:4-7; 112:18-23, Biddle Dep. pp. 13:2-6; 169:19-22; 135:9-25, Friedman Dep. pp. 278:7-14; 287:19-24; 291:14-19; 292:2-13, Crotty Dep. pp. 143:6-14; 143:15-23; 145-146:18-13; 257:5-11, Dress Dep. pp. 151-152:23-2, Levin Dep. pp. 14:9-18; 14:25-15:10, Mukerjee Dep. p. 12:3-17, Olsen Dep. pp. 93-94:1-20; 97:15-22; 103:4-14, Ross Dep. pp. 169-170:17-3, Sperry Depo. pp. 76:19-24; 78:15-25, Kristen Kojis Dep. p. 35:1-3, Eric Corley Dep. pp. 75:9-25; 76:1-25; 77:1-2; 77:10-12 81: 6-9, Sandor Katz Dep. pp. 109:13-17; 112, Rivera Dep. pp. 64-65:21-2, Hill Dep. pp. 111:2-5; 114:19-25, Rosin Dep. pp. 1872-7; 188:8-10; 188:21-25; 190: 3-11, Steitz Dep. pp. 119-120: 20-1; 111:12-14; 148:17-22, Bhagat dep. p. 58-59:7-20, Freas Dep. pp. 66-67:20-11, Eifert dep. p. 108, Kunz Dep. p. 101:2-15, Erik Henriksen Dep. p. 117;15-18, Michelle Kaye Dep. pp. 95:21-24; 96:1-9; 97:8-12; 97:22-24; 98: 1-6, Thomas Kennedy Dep. pp. 148:2-5; 161:4-10; 176:12-17; 211:14-18; 165: 2-11; 188-189:21-12; 193: 2-9; 198: 21, Greg Griffith Dep. pp. 56:24-25; 57:4-5; 59:13-17, L. Martin Dep. p. 89:16-17, Rebecca

Wood Dep. p. 87:23-25, Bastidas Dep. pp. 19:19-20; 139:16-139:20, Hurley Dep. p. 86:21-23, Jabour Dep. pp. 162:23-24; 163:11-12, Paine Dep. p. 84:3-10, Palmer Dep. pp. 160-161:19-4; 166:17-23, Pietri Dep. p. 39:6-7, Ponce Dep. pp. 143:12-13; 150:7-12, Giles Dep. pp. 151:15-23; 157:3-8; 164-165:24-3, Grosso Dep. pp. 149-150:18-8, Harden Jones Dep. p. 134:14-15, Pryor Dep. pp. 115-116:23-3, Stark Dep. p. 153:19-20, Whitney Dep. p. 155:15, Stark 50-h p. 64:6-12, Jabour 50-h p. 129:17-20, Rosemoore Dep. p. 162:5-8, Lovejoy Dep. p. 97:16-21, Beibin 50-h p. 26:16-21, Dinler CCRB RMT #2670, pp. 2, 8-9, Goldstein 50-h pp. 40:14-24, 41:17-19, Perry Dep. p. 54:8-9, Vault Dep. p. 118:4-10, Walden Dep. 118:6-18, Plaintiff DVD # 22 (Bosse at 24-28; Cohn at 8), DVD #18 Hall at 00:05:34-00:10:10, Plaintiff's Video #79 at 36:18-37:56, Plaintiff's Video: 76 at 5:00 – 8;15, Plaintiff #65 at 5:50-10:31, Plaintiff's 22 at Bosse24.JPG through Bosse28.JPG;Corley 14.jpg and Corley15. JPG; Cohn6.jpg through Cohn8.jpg, DA Video #61 19:00:58 to 19:03:00, NLG DVD # 1011 at 00:48:26:07- 00:48:54:25, IWV Video #1051, 10:50-15:00, Plaintiff Video 143 at 6:35-9:25, Plaintiff Video 78- Rothman 9- Rothman RNC Cases at 9:40-15:20, CCRB #3 at 32:00 – 37:45, IWV Video 1022 at 5:45-6:30, IWV Video 1139 at 12:35- 14:50).

39. Essig And Dieckmann observe the 16th Street Parade block vehicular and pedestrian traffic on East 16th Street. (Essig p. 104:12-17, Dieckmann p. 182:9-24).

40. Members of the NYPD have difficulty reaching Irving Place due to the congestion caused by the unpermitted parade. (Carpentieri Dep. pp. 107-108:7-12; 111:21-24, Essig Dep. p. 124:13-22, Galati Dep. pp. 293:10-24; 482-483:22-10, Lamendola Dep. pp. 93:24-24; 94:2-3; 96:5; 99:2-6, Fontaine Dep. pp. 77-78:15-2, Chico Dep. p. 74:7-16, Bencosme Dep. pp 31-32:1-4, Murphy Dep. pp. 57-58:21-5).

41. The police form a line in the street at the corner of East 16th Street & Irving Place. (Essig Dep. p. 105:11-20, Loftus Dep. pp. 36:2-5; 38:14-16, Sam Depo. pp. 84:17-21; 229:12-15, Suero Depo. p. 69:15-70:8, Bizzarro Depo. p. 48:12-16, Fredericks Depo. pp. 45-46:24-4, Malone Dep. pp. 55-56:21-8, Connolly Dep. p. 42:11-19, Cortright Dep. p. 184:3-10, Laera Dep. p. 35:17-25, Benjacob Dep. pp. 74-76).

42. Initially, the line extends from curb to curb only. (Essig Dep. p. 105:11-20, Byrne Dep. p. 54:6-12, Sam Dep. p. 229:12-24, Connolly Dep. pp. 43:8-22; 44:2-9; 81:5-9, Cortright Dep. pp. 85:6-12; 129:13-16; 140:10-14; 184:3-10; 184-185:21-3; 129:17-23, Laera Dep. p. 36:4-7).

43. Participants in the 16th Street Parade are free to leave the parade at the corner of East 16th Street & Irving Place. (Video Comp. at Chapter 6, Sam Dep. pp. 230:7-12; 298:10-15, Bizzarro Dep. pp. 53:4-14; 53:18-20, Fredericks Dep. pp. 53:3-6; 54:9-11; 55:8-14, Malone Dep. pp. 60:15-19; 61:2-5, Connolly Dep. pp. 43:8-22; 44:2-9, Cortright Dep. pp. 129:17-23; 184-185:21-3, Benjacob Dep. pp. 45:12-15; 141-142:21-23; 147:6-25; 149:1-4, DeEntremont Dep. pp. 118-119:21-22; 119-121; 162:5-10; 164:15-17, Loftus pp. 39:19-40:18, Panasuk Dep. pp. 45:12-15; 46:8-12, Byrne Dep. p. 60:10-16, Chico Dep. p. 78:4-6, Sarrubbo Dep. p. 54:16-17, Pribetich Dep. pp. 37:21-38:6, Soldo Dep. p. 41:21-24, Greg Griffith Dep. p. 62:2-6, Michelle Kaye Dep. p. 105:22-25, Ross Dep. pp. 144-145:25-3, Rose Dep. p. 102:10-14, Video: #68 Neary 00001 at 00:32:37, IWV Video #1051 at 11:40-11:55, DA Video #85, 4:48-4:52).

44. Some participants in fact did leave the 16th Street Parade at the corner of East 16th Street & Irving Place. (Video Comp. at Chapter 6, Essig Dep. pp. 156:12-16; 519:8-10; 756:5-20; 760:2-13, Deickmann Dep. pp. 69-70:21-3, Sam Depo. pp. 76:16-23;

230:7-12; 298:10-15, Loftus Depo. pp. 39-40:19-18; 46-47:21-11, Bizzarro Dep. pp. 53:4-14; 53:18-20, Fredericks Dep. pp. 53:3-6; 54:9-11; 55:8-14, Malone Dep. p. 61:2-5, Benjacob Dep. pp. 147:6-25; 149:1-4, Flaton Dep. p. 145:12-16, De Entremont Dep. pp. 164:15-17; 162-163; 164-165: 15-12; 162:5-10, Loftus Dep. pp. 39-40:19-18, Panasuk Dep. pp. 45:12-15; 46:8-12, Fernandez Dep. p. 48:19-21, Bonacci Dep. p. 25:4-19, Byrne Dep. p. 51:9-25, Pribetich Dep. pp. 37-38:21-6, Soldo Dep. p. 41:21-24, Cortright Dep. pp. 61:18-23; 67:10-12; 184:21-24, DVD #18 Hall at 00:06:29-00:06:47, Plaintiff Video 143 at 8:10-8:25, Plaintiff Video 114- Cathie Bell Part 1 of 2 at 1:45-4:00, Plaintiff Video #79, 3:21-3:40, IWV Video 1130 at 3:40-4:00, IWV Video 1-51 at 11:40-11:55).

45. The NYPD forms a line on the western end of East 16th Street to prevent more marchers from entering 16th Street and to keep innocent bystanders out. (Video Comp. at Chapter 6, Baity Dep. pp. 38-39:15-13, Baity Dep. pp. 25-26:22-5, N. Rodriguez Dep. p. 70:22-25, Gonzalez Dep. pp. 47-48:19-4, Connolly Dep. pp. 78-79:17-5; 79:17-20, Keegan Dep. p. 46:5-6, Chun pp. 47-48:22-22; 51:12-15, Keegan Dep. p. 43:13-19, Fackler Dep. pp. 78-79:24-2, DeEntremont Dep. pp. 118-119:21-22, Abdiel Dep. p. 54:5-13, Anderson Dep. p. 16:19-23, Bucchignano Dep. pp. 36-37:24-7, IWV 1022 at 2:45-5:30, Plaintiff Video 143 at 12:45-13:00).

46. Participants in the 16th Street Parade are permitted to leave East 16th Street through the police line on the western end of East 16th Street. (Video Comp. at Chapter 6, Baity Dep. p. 39:14-19, Baity Dep. pp. 23:2-12; 23-24:22-2; 28:21-22, Gonzalez Dep. pp. 48-49:18-2; 49-50:24-1, Fredericks Dep. p. 53:3-6, Cortright Dep. pp. 68:11-15; 86:18-21; 186:15-24, Chun pp. 51:12-15; 64:21-23; 66:8-12; 67:7-19, Fernandez Dep. p. 48:19-21, Brijbukhan Dep. pp. 36:10-21; 38:2-15, Markowski Dep. pp. 67:7-15; 69:13-

14, Mullen Dep. p. 75:8-14, Bucchignano Dep pp. 41:10-25; 42:2-8; 42:20-22, Ruffle Dep. pp. 51:16-25; 65-66:22-13; 70:7-21; 71:13-18; 74:10-14, DeEntremont Dep. pp. 118-119:21-22; 119-121; 120:17-25; 162:5-10; 119-120:25-2, Mancuso Dep. pp. 37-38:22-2, Neary Dep. pp. 110-111:24-4; 111:12-111:17; 112:10-15, Stark Dep. p. 155:16-23, Rosemoore 50-h p. 12:8-17, IWW Video 1118 at 5:05-8:01, DVD # 18 Hall at 00:14:36-00:14:48, IWW Video 1022 2:45-5:30, IWW Video 1139 12:20-12:30).

47. Participants in the 16th Street Parade have the have the opportunity to leave through either side of 16th Street. (Video Comp. at Chapter 6, Essig Dep. pp. 273-274:9-25; 275:6-12; 463:6-18; 746:15-18, Dieckmann Dep. p. 68:10-16, Johnson Dep. pp. 52:14-17; 62-64:24-3 168:10-23, Sam Dep. pp. 76:16-23; 230:7-12; 298:10-15, Suero Dep. p. 76:6-15, Loftus Dep. pp. 39-40:19-18; 46-47:21-11, Bizzarro Dep. pp. 53:4-14; 53:18-20, Fredericks Dep. pp. 53:3-6; 54:9-11; 55:8-14, Brijbukhan Dep. pp. 36:18-21; 39:11-14, Malone Dep. pp. 60:15-19; 61:2-5, Cortright Dep. pp. 60:9-14; 62:3-6; 67:6-12; 68:10-15; 94:10-12, Benjacob Dep. p. 142:8-20, Gomez Dep. p. 41:3-9, Minogue Dep. pp. 76-77:15-2; 77-78:16-11, Ruffle Dep. pp. 51:16-25; 65-66:22-13; 70:7-21; 71:13-18; 74:10-14, Brijbukhan Dep pp. 36:10-21; 38-39:3-14; 43:14-19, DeEntremont Dep. pp. 118-119:21-22; 119-120:25-2; 120:17-25; 122-23; 162:5-10; 164:15-17, Waters 50(h) p. 19:18-22, Shortridge Dep. pp. 108:14-108:15; 109:17-19, Michelle Kaye Dep. p. 96:16-21, Mancuso Dep. pp. 37-38:22-2, Karlin Dep. p. 112:11-13, Plaintiff's Video #79 at 3:21-3:40, DVD # 18 Hall at 00:6:29-00:06:47; 00:14:36-00:14:48, IWW Video 1118 at 5:05-8:01, DVD # 18 Hall at 00:14:36-00:14:48, IWW Video 1022 2:45-5:30, IWW Video 1139 12:20-12:30, Plaintiff Video 114- Cathie Bell Part 1 of 2 at 1:45-4:30, IWW

Video 719 at 31:07-31:56; 33:10-35;50, IWV Video 1118 at 9:40, Plaintiff Video 143 at 8:10-8:25, IWV Video 1130 at 3:40-4:00, IWV Video 1051 at 11:40-11:55).

48. Essig and Dieckmann observe numerous people leave East 16th Street. (Essig p. 156;12-16; p. 797:10-12, Dieckmann pp. 68-69:22-5; pp. 69-70:25-3; pp. 434-435:15-17).

49. Some plaintiffs admit that, while they were free to exit East 16th Street, they chose not to. (Sperry Depo. p. 78:2-8, Steitz Dep. p. 129:13-24, Thomas Kennedy Dep. p. 208:3-19).

50. Some plaintiffs admit that they never asked or tried to leave the block of East 16th Street and the police officers who were present were never asked by participants in the parade about leaving. (Cortright Dep. p. 147:6-9, Benjacob Dep pp. 98-99, DeEntremont Dep. p. 133:2-7, Maurer Dep. 161:13-16, Waters Dep. 49:2-4, Waters 50(h) p. 25:3-12, Hill Dep. pp. 117-118:22-1, Steitz Dep. pp. 129:13-24; 144-145:22-4, Majmudar Dep. p. 95:19-22, Biddle Depo. 32:25-33:11, Crotty Dep. p. 150:21-25, Podber Dep. p. 56:20-22, Blackburn Dep. pp. 131:10-16; 132:10-11, Dress Dep. pp. 158-159:21-1, Hardesty Dep. pp. 164-165:17-3, McGee Dep. pp. 99-100:25-13, Mukerjee Dep. pp. 95-96:24-7, Olsen Dep. pp. 109:8-9; 109:20-110:1, Sperry Dep. pp. 78:2-8; 79:24-80:3, Michelle Kaye Dep. p. 100:25; 101:1-8, Holt Dep. pp. 92-93:19-3, Thomas Kennedy Dep. p. 209:3-10, Doxtader Dep p. 86:23-24, Geocos Dep. p. 105:7-9, Maddox Dep. p. 93:7-8, Maret Dep. pp. 23-24:24-1, Wilcox Dep. p. 77:24, Zarrella Dep. (I) p. 38:22-24, Lahn Dep. 77:17-21).

51. The group that remains on East 16th Street continues to engage in civil disobedience. (Video Comp. at Chapter 5, Essig Dep. pp. 116-119:12-9; 326:6-12;

365:14-25; 366-367:17-8; 749-750: 24-20; 769-773:2-3, Carpentieri Dep. pp. 200-201:25-6, Hayes Dep. pp. 66:23-25; 67:1-8; 70:8-21; 76:2-14; 100:6-11, Sam Dep. pp. 159:2-5; 307-308:19-6, Baity Dep. pp. 42:8-11; 252:17-25, Baity Dep. pp. 29:20-24; 83-84:15-2, Suero Dep. p. 75:10-12, Rodriguez Dep. p. 52:8-18, Pacheco Dep. pp. 23:15-23; 59:8-60:9, Cortright Dep. p. 61:11-18, Buccignano Dep. pp. 85-86:8-25, DiMaggio Dep. p. 63:6-18, Keegan CCRB RMT #4806, pp. 16-17, Rufle Dep. pp. 78:21-22; 87:7-18; 90-92:16-11, DeEntremont Dep. pp. 136-137:19-2; 30:12-23, Bell Dep. p. 50:18-24, Waters 50(h) p. 20:16-25, Biddle Dep. p. 15:18-23, Friedman Dep. pp. 296-297:22-4, Spector Depo. pp. 66:9-20; 104:13-24, Rosin Dep. p. 190:2-11, Geocos Dep. p. 96:2-4, Maddox Dep. p. 95:7-9, Hemwall Dep. p. 26:22-23, Plaintiff Video 143 at 6:45-7:00, Plaintiff's Video #79, 3:27-4:16, 37:22-37:46, Plaintiff DVD #22- Bosse at 24-30; Bosse video clips 3, 5,7 and 10; Cohn at 8 9,15,23, DVD #18 Hall at 00:05:59-00:06:08; 00:06:48-00:08:28, DVD #18 Vault at 00: 41:11-00:42:11, DA Video #94, 3:03-3:30, 4:03-4:23, DA Video #68 – 7:08 to 7:10 pm, DVD #1021 at 0:01:15:17-0:01:55:09; 0:38:33:29, DVD # 1012 at 00:06:41:25; 00:01:44:00- 00:05:43:16).

52. Police order those still in the roadway on East 16th Street to move onto the sidewalk. (Loftus Dep. p. 38:2-20, Bizzarro Dep. pp. 52:21-25; 57:22-23, Gomez Dep. pp. 32:20-15; 36:17-24, Bencosme Dep. pp. 30:11-15; 39-40:20-12, Friedman Dep. p. 315:22-25, Crotty Dep. pp. 147-148:22-1, Olsen Dep. p. 104:20-24, Steitz Dep. pp. 11:12-17; 133:12-15, Sakayama Dep. (I) p. 96:16-18, Megan Cox Dep. p. 49:23-24, Schoeman Dep. p. 16:10-12, Hughes-Dunn Dep. pp. 21-26:25-2, Jabour Dep. p. 165:4-8, Ponce Dep. p. 134:24, Codel 50-h p. 27:10-12, Jabour 50-h p. 129:8-9, Rosemoore 50-h p. 13:23-25, Rubinfeld 50-h p. 20:19-21, Sakayama 50-h p. 11:13-17, Walsh CCRB

#2844 p. 19, Plaintiff Video 79 36:41-37:16, Plaintiff Video 25 at 4:00-10, Plaintiff Video 143 at 7:45-8:00, Plaintiff Video 78- Rothman 9- Rothman RNC Cases at 18:00, Plaintiff Video 114- Cathie Bell Part 1 of 2 at 37:54, DVD # 18 Hall 00:08:23; Vault at 00:43:47 and 00:45:20, IWV Video: DVD #735 at 00:3:16-00:3:47:21 (7:28:32 PM-7:29:00 PM), DVD # 1012 at 00:02:43:28, Plaintiff Video #65 at 00: 08:47, DA Video #61 at 19:12:40, IWV Video 1130 at 37:30-38:00, IWV Video 1139 at 13:36-14:00).

53. Many of the individuals in the roadway refuse to comply with the orders to move onto the sidewalk. (Video Comp. at Chapter 5, Walsh Dep. pp. 32-33:19-6, Jabour 50-h p. 141:11-15, Sandor Katz Dep. p. 109:13-17, DVD #18 Vault at 43:56, IWV Video 1130 at 37:30-38:00, Plaintiff Video 79 37:30-37:53).

54. The decision to arrest was made by Chief Essig after consultation with Inspector Dieckmann. (Essig Dep. at pp. 154-155:13-17; 159-160:22-3; 178-183:24-12).

55. The decision by Essig and Dieckmann to arrest was made based upon their observation of the unlawful conduct of the group during the 16th Street Parade. (Essig Dep. pp. 126-127:22-12; 160-161:4-15; 167:16-24; 167-168:25-8, Dieckmann Dep. pp. 91: 19-25 109-110:20-22; 176-177:13-4; 177-78: 21-9, Galati Dep. p. 437:7-22).

56. Properly credentialed press and other certain individuals were not ultimately arrested and were allowed to leave. (Essig Dep. pp. 155-156:18-16; 281:6-10; 303-308:19-17; 309-310:24-9, Hayes Dep. pp. 83-84:20-17, O'Connor Dep. p. 289:17-22, Ryan Dep. p. 48:9-11, Benjacob Dep. pp. 98-99, Podber Dep. pp. 55:11-12; 55:17-21, Eric Corley Dep. p. 78:12-15, L. Martin Dep. 87:22-23, Hill Dep. pp. 116-117, Codel 50-h p. 29:2-3, Grosso 50-h p. 16:3-7, Dinler CCRB RMT #2670, pp. 18-19, Vault 50-h p. 22:12-17, Thomas Kennedy Dep. p. 205:5-11, Greg Griffith Dep. p. 61:11-20, Johnson

Dep. pp. 52:13-17; 59-62:19-8, Keegan Dep. p. 48:15-17, Del Gaudio Dep. pp. 140:5-22; 141-142:14-5, Benjacob Dep. pp. 97:11-25; 98-99, Chico Dep. p. 78:22-25, Encarnacion Dep. pp. 75:15-17; 76:2-11, Mullen Dep. pp. 91-92:24-12, Perez Dep. pp. 88:5-15; 101:20, Manzi Dep. p. 42:2-6, Ryan Dep. p. 48:4-9, Reilly Dep. p. 84:6-9, Beibin 50-h p. 33:18-22, Karlin Dep. pp. 112:11-13; 113:3-4, DVD # 18 Hall at 00:22:31-00:22:49, DVD 76 at 00:06:20 through 00:06:35, DA Video #61 at 19:32:43 to 19:32:52, Plaintiff Video 68 at 32:00-32:15, Plaintiff Video 25 at Track 2 20:00-20:20).

57. Essig, Dieckmann, and other NYPD personnel believed that the individuals arrested on 16th Street were part of the group that Essig and Dieckmann observed violating the law. (Essig Dep. pp. 163-164:20-9; 169:10-22; 181:19-22; 517:4-14, Dieckmann Dep. p. 145:2-21, Galati pp. 428-430:12-12, Fernandez Dep. p. 102:3-13, Caraballo Dep. p. 39:11-16, Lamendola Dep. pp. 150:22-25; 155:7-11; 158:4-7).

58. New York County Assistant District Attorney Gary Galperin, noticed for deposition by plaintiffs in these RNC Cases, testified that “there could be some situations where a police officer and we in turn could charge someone with a particular offense even if the police officer did not specifically make eye contact or visually observe each defendant. For example, if we know 50 people are blocking an intersection and if we know the people who were apprehended and arrested were all part of the blockage, it wouldn't be necessary necessarily for a police officer to have made eye contact with each of the 50 people as long as we can say with reasonable cause that each of the 50 people were part of the blockage.” (Galperin Dep. pp. 160:10-23).

59. There were fewer people arrested on East 16th Street than had initially entered East 16th Street as part of the 16th Street Parade. (Brijbukhan Dep. pp. 38-39:22-2; 141-142:24-7, Karlin Dep. p. 112:11-13).

60. Plaintiffs admit that video evidence of the 16th Street Parade depicts unlawful conduct. (Harden Jones Dep. pp. 177-178:22-3, Pryor Dep. p. 142:14-23, Ross Dep. p. 171:3-7, Vault Dep. pp. 146-147:21-2).

61. Over 1100 individuals were arrested on August 31, 2004. (Colgan Dep. p. 162:21-13).

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New York, New York

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